

3. Pursuant to Florida Statutes 163.3177, the Schedule of Capital Improvements may be adjusted by ordinance not deemed to be an amendment to the Comprehensive Plan for corrections, updates, and modifications concerning costs; revenue sources; acceptance of facilities pursuant to dedications which are consistent with the plan; or the date of construction of any facility enumerated in the Schedule of Capital Improvements.
4. Any act, or failure to act, that causes any project listed in the Schedule of Capital Improvements of this Comprehensive Plan to be scheduled for completion in a fiscal year later than the fiscal year indicated in the Schedule of Capital Improvements shall be in effect only if the act causing the delay is subject to one of the following:
- a. Projects providing capacity equal to, or greater than the delayed project are accelerated within, or added to the Schedule of Capital Improvements, in order to provide capacity of public facilities in the fiscal year at least equal to the capacity scheduled prior to the act which delayed the subject project.
 - b. Modification of development orders issued conditionally or subject to the concurrent availability of public facility capacity provided by the delayed project. Such modification shall restrict the allowable amount and schedule of development to that which can be served by the capacity of public facilities according to the revised schedule.
 - c. Amendment of the plan to reduce the adopted standard for the level of service for public facilities until the fiscal year in which the delayed project is scheduled to be completed. 9J-5.016(3)(c)7

Policy 1.3.2: [CI]

The local government shall include in the capital appropriations of their annual budgets all the capital improvements projects listed in the Schedule of Capital Improvements for expenditure during the appropriate fiscal year, except that the local government omit from their budgets any capital improvements for which a binding agreements has been executed with another party to provide the same project in the same fiscal year. The local government may also include in the capital appropriations of their annual budgets additional public facility projects that conform to Policy 1.1.4.2.b.3 and Policy 1.2.3.3. 9J-5.016(3)(c)7.

Policy 1.3.3: [CI]

The City Commission of Tallahassee and the Board of County Commissioners of Leon County find that the impacts of development on public facilities within Tallahassee and Leon County occur at the same time as development authorized by a final development order. The local government shall determine, prior to the issuance of development orders, whether or not there is sufficient capacity of Category A and Category C public facilities to meet the standards for levels of service for existing development and the

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proposed in the Plan amendment in the event the referendum is not held, or is held and is not successful.

Objective 1.3: [CI]

Provide needed capital improvements for repair or replacement of obsolete or worn out facilities, eliminating existing deficiencies, and meeting the needs of future development consistent with the adopted plan and depicted on the future land use map and redevelopment caused by previously issued and new development orders. The local governments' ability to provide needed improvements shall be demonstrated by maintaining a financially feasible Schedule of capital Improvements, as documented by the summary "Costs and Revenues by Type of Public Facility" contained in this Capital Improvements Element. 9J-5.016(3)(b)1 and 5

Policy 1.3.1: [CI] *(Effective 11-1-99)*

The local government shall provide, or arrange for others to provide, the public facilities listed in the Schedule of Capital Improvements in the "Requirements for Capital Improvements Implementation" section of this Capital Improvements element. The capital improvements listed for Leon County within this element are balanced pursuant to 9J-5 with available revenue sources. However, the County reserves the right to amend projects and funding sources consistent with the criteria set out in 9J-5 for the Capital Improvements Element. The Schedule of Capital Improvements may be modified as follows:

1. The Schedule of Capital Improvements shall be updated annually. The annual update process shall be initiated concurrently with the preparation and adoption of the local governments' capital budgets. The capital improvement element schedule update amendment to the Comprehensive Plan shall be based upon the local governments' draft capital budgets being considered for adoption. The capital improvement element schedule update shall reflect any changes in the construction initiation date, completion date, or estimated project cost as otherwise established in a previous year's capital improvement element schedule update. The update shall also indicate whether those projects included in the previous year's capital improvement element schedule update (but not included in the current year's capital improvement element schedule update), have been completed, are ongoing, or have been deleted. Thereafter, prior to the transmittal of the amendment revising the Schedule of Capital Improvements, the amendment shall be revised to reflect any corresponding changes in the adopted local government capital budgets.
2. Pursuant to Florida Statutes 163.3187, the Schedule of Capital Improvements may be amended two times during any calendar year, and as allowed for emergencies, developments of regional impact, and certain small scale development activities.

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proposed development concurrent with the impacts of proposed development. For the purpose of this policy, the City of Tallahassee shall define "concurrent with" as follows:

1. No final development order shall be issued by the local government after October 1, 1990, unless there shall be sufficient capacity of Category A and Category C public facilities to meet the standards for levels of service for the existing population and for the proposed development according to the following timeframes:

a. For the following public facilities, there must be available capacity to serve the impacts of the proposed development prior to the issuance of the building permit. All other final development orders shall be conditioned on the requirement that building permits will not be issued for the subject property until the capacity of the following public facilities meets the standards for levels of service of Category A and Category C:

- (1) Potable water.
- (2) Sanitary sewer.
- (3) Solid waste.
- (4) Stormwater management.

b. For the following public facilities there must be available capacity to serve the impacts of the proposed development at the adopted level of service within 12 months of the issuance of the final development order:

- (1) Parks and recreation.
- (2) Mass transit.

2. An applicant for a preliminary development order shall have a determination made as to the availability of Category A and Category C public facilities in accordance with subsection a or b:

a. The applicant may request a determination of available capacity as part of the review and approval of the preliminary development order provided that the determination of available capacity shall apply only to specific uses, densities and intensities based on information provided by the applicant and included in the development order,

b. The applicant may request the approval of a preliminary development order without a determination of capacity of Category A and Category C public facilities provided that any such order is issued subject to requirements in the applicable land development regulation or to specific conditions contained in the preliminary development order that:

- (1) Final development orders for the subject property are subject to a determination of available capacity in Category A and Category C public facilities, as required by Policy 1.3.1, and;
- (2) No rights to obtain final development order, nor any other rights to develop the subject property have been granted or implied by the local government's approval of the preliminary development order without determining that there is available capacity in Category A and Category C public facilities.
3. Except for an approved development of regional impact with specific phases of development, the determination of available capacity shall be valid for the term of a proposed project's development order. For development orders without specific terms of development, the determination and reservation of available capacity shall not exceed two years. For good faith development, extensions of the two year terms may be permitted in six month intervals.
4. A determination that there is available capacity in public works to serve the project shall run with the land; shall be assignable within adjacent portions of a project; and shall not be assignable to other projects. A determination that there is available capacity for a project shall apply only to specific land uses, densities, and intensities based upon information provided by the applicant. Any change in the density, intensity or land use is subject to review and approval or denial by the City of Tallahassee.
5. An applicant shall prepay all impact fees or other infrastructure costs to guarantee the applicant's pro rata share of the local governments' financial obligation for public facilities which are constructed by the local government for the benefit of the subject property.
- a. Whenever an applicant's pro rata share of a public facility is less than full cost of the facility, the local government shall contract with the applicant for the full cost of the facility including terms regarding reimbursement of the applicant for costs in excess of the applicant's pro rata share.
- b. Upon expiration of the determination of capacity for the development pursuant to subsection 2.a.(2) all unused capacity shall be forfeited. The pro rata infrastructure costs (not impact fees) paid for said capacity now forfeited shall be held by the City as a credit unless excess capacity exists that will allow local government to extend the expiration date. Pro rata infrastructure costs held as a credit by local government and not used by a developer to offset future impacts on public facilities shall be rebated without interest to the developer after a period of one (1) year.

6. The standards for levels of service of Category A and Category C public facilities shall be applied to the issuance of development orders on the following geographical basis:

a. Public facilities which serve all of Leon County shall achieve and maintain the standard for levels of service on a Countywide basis. No development order shall be issued in any unincorporated part of Leon County if the standard for levels of service is not achieved and maintained throughout the County for the following public facilities:

- (1) Solid Waste Disposal
- (2) Countywide Parks

b. Public facilities which serve less than all of Leon County shall achieve and maintain the standard for levels of service within their assigned service area. No development order shall be issued in an assigned service area if the standard for levels of service is not achieved and maintained throughout the assigned service area for the following public facilities and assigned service areas:

- (1) Arterial and Collector Roads: All such roads throughout the county significantly affected by the proposed development
- (2) Stormwater Management Systems: Major Stormwater Basin
- (3) Potable Water Systems: Water System Service Area
- (4) Sanitary Sewer Systems: Treatment Plant Service Area
- (5) Area Parks: Urban Service Area
- (6) Mass Transit: Citywide

COORDINATE CAPITAL IMPROVEMENTS WITH LAND DEVELOPMENT

Objective 1.4: [CI]

Manage the land development process to insure that all development receives public facility levels of service equal to, or greater than the standards adopted in Policy 1.1.3, subsections 1-3, and 6. 9J-5.016(3)(b)3 and 5 by implementing the Schedule of Capital Improvements (required by Objective 1.3) and produced in its entirety elsewhere in the Capital Improvements Element, and by using the fiscal resources provided for in Objective 1.2 and its supporting policies.

Policy 1.4.1: [CI]

All Category A public facility capital improvements shall be consistent with the goals, objectives and policies of the appropriate elements of this Comprehensive Plan. 9J-5.016(3)(b)5, (3)(c)9, and (4)(a)1.b

Policy 1.4.2: [CI] (Effective 11-1-99)

The local government shall integrate their land use planning and decisions with their plans for public facility capital improvements by developing and adopting the programs listed in the "Implementation Programs" section of this Capital Improvements Element. The location of, and level of service provided by projects in the Schedule of Capital Improvements shall maintain adopted standards for levels of service for existing and future development in a manner and location consistent with the Future Land Use Element of this Comprehensive Plan. Individual land use decision shall be consistent with the Comprehensive Plan.

9J-5.016(3)(b)3, (3)(c)9.

**REQUIREMENTS FOR CAPITAL IMPROVEMENTS IMPLEMENTATION
SCHEDULE OF CAPITAL IMPROVEMENTS, INCLUDING GENERAL
LOCATION**

The Schedule of Capital Improvements on the following pages will repair or replace obsolete or worn out facilities, eliminate existing deficiencies, and make available adequate facilities for future growth through no less than a five-year planning period, updated annually. The analysis of capacity requirements for deficiency and growth at the time of original plan adoption appears in a support document prepared for this Capital Improvements Element: "Public Facility Requirements 1988/89 - 1995/96 and to 2010."

The projects are listed according to the type of public facility. Within each list, projects are listed in sequence according to the fiscal year in which the initial project expenditures are scheduled. The capital improvement element schedule update shall provide the projected construction initiation date, completion date, and rough estimate of the total project cost for each project included therein. The capital improvement element schedule update shall include advance-funded State of Florida roadway projects, noting, however, that the local government bears no obligation in the funding or construction of these facilities. The capital improvement element schedule update shall include those local road projects reflected in the local government's adopted capital budget.

Each project is named, and briefly described. Most project locations are specified in the name or description of the project. The capacity of the project is shown, using the same measure of capacity that is used in the standard for the level of service (see Policy 1.1.3). Capacity increases may meet the needs of current deficiencies, or future development, or both, as noted above. If no "added capacity" is shown, the project is limited to repair, renovation, remodeling or replacement of an existing facility, with no net increase in capacity.

The estimated cost of each project during each of the next five or six fiscal years is shown in thousands of dollars (\$1000s), and the total 5 or 6-year cost is also shown. Any costs incurred before or after the 5 or 6-year schedule are omitted from the project total. Such costs appear in the local governments' Capital Improvements Programs. All cost data is

PROGRAMS TO ENSURE IMPLEMENTATION

The following program descriptions are part of the adopted Comprehensive Plan. The following programs shall be implemented by January 31, 1991, or such earlier date as may be adopted by the local government, to ensure that the goals, objectives and policies established in the Capital Improvements Element will be achieved or exceeded. Each implementation program will be adopted by ordinance, resolution or executive order, as appropriate for each implementation program.

1. Review of Applications for Development Orders. The local government shall amend their land development regulations to provide for a system of review of various applications for the levels of service of Category A and Category C public facilities. Such system of review shall assure that no final development order shall be issued which results in a reduction in the levels of service below the standards adopted in Policy 1.1.3.a-c for Category A public facilities and Policy 1.1.3.f for Category C public facilities. The land development regulations shall include, at a minimum, the provisions of Policy 1.3.3.a and b in determining whether a development order can be issued.

The land development regulations shall also address the circumstances under which public facilities may be provided by applicants for development orders. Applicants for development orders may offer to provide public facilities at the applicant's own expense in order to insure sufficient capacity of Category A and Category C public facilities, as determined according to Paragraphs A and B, above. Development orders may be issued subject to the provision of public facilities by the applicant subject to the following requirements:

- a. The local government and the applicant enter into an enforceable development agreement which shall provide, at a minimum, a schedule for construction of the public facilities and mechanisms for monitoring to insure that the public facilities are completed concurrent with the impacts of the development, or the development will not be allowed to proceed.
- b. The public facilities which are impacted by a subsequent Development Order are operating and will continue to operate at or above the adopted LOS consistent with the conditions outlined in Policy 1.3.3 of the CIE and that the public facilities are contained in the Schedule of Capital Improvements of the Comprehensive Plan.

2. Impact Fees. Impact fee ordinances shall require the same standard for the level of service as is required by Policy 1.1.3., and may include standards for other types of public facilities not addressed under Policy 1.1.3. All impact fee ordinances necessary to support the financial feasibility of this element shall be adopted, or amended to the required standard for the level of service by January 31, 1991.

3. Annual Budget. The annual budget shall include in its capital appropriations all projects in the Schedule of Capital Improvements that are planned for expenditure during the next fiscal year.

4. Capital Improvements Program. The annual multi-year Capital Improvement Program (CIP) shall be prepared in conjunction with the annual review and update of the Capital Improvements Element. The CIP shall contain all of the projects listed in the Schedule of Capital Improvements of the updated version of the Capital Improvements Element.

5. Semiannual Report. The mandatory semiannual report to the Department of Community Affairs concerning amendments to the Comprehensive Plan due to emergencies, developments of regional impact and selected small developments shall report on changes, if any, to adopt goals, objectives and policies in the Capital Improvements Element.

6. Update of Capital Improvements Element. The Capital Improvements Element shall be reviewed and updated annually. The element shall be updated in conjunction with the budget process and the release of the official population estimates and projections by the Bureau of Economic and Business Research (BEBR) of the University of Florida. The update shall include:

- a. Revision of population projections
- b. Update of inventory of public facilities
- c. Update of costs of public facilities
- d. Update of Public Facilities Requirements analysis (actual levels of service compared to adopted standards)
- e. Update of revenue forecasts
- f. Revise and develop capital improvements projects for the next five fiscal years
- g. Update analysis of financial capacity

7. Concurrency Implementation and Monitoring System. The local government shall establish and maintain Concurrency Implementation and Monitoring Systems. The Systems shall consist of the following components:

- a. Annual report on the capacity and levels of service of public facilities compared to the standards for levels of service adopted in Policy 1.1.3.a-c and f. The report shall summarize the actual capacity of public facilities, and forecast the capacity of public all be based on the most recently updated Schedule of Capital Improvements in this Capital Improvements Element. The annual report shall constitute prima facie evidence of the capacity and levels of service of public facilities for the purpose of issuing development orders during the 12 months following completion of the annual report. The annual report shall also

summarize and forecast capacities and levels of service for comparison to the standards adopted in Policy 1.1.3.d and e, but such portion of the annual report shall be for information purposes only, and shall not pertain to the issuance of development orders by the local government.

b. Public facility capacity review. The City of Tallahassee and Leon County shall use the procedures specified in Implementation Program 1, above, to enforce the requirements of Policy 1.3.3.a. and b. and as such the impacts of proposed development will be analyzed in relation to the availability of capacity at the time of permitting. Records shall be maintained during each fiscal year to indicate the cumulative impacts of all development orders approved during the fiscal year-to-date on the capacity of public facilities as set forth in the most recent annual report on capacity and levels of service of public facilities. The land development regulations of the local government shall provide that applications for development orders that are denied because of insufficient capacity of public facilities may be resubmitted after a time period to be specified in the land development regulations. Such time period is in lieu of, and not in addition to, other minimum waiting periods imposed on applications for development orders that are denied for reasons other than lack of capacity of public facilities. Land development regulations shall require that development commence within a specified time after a development order is issued, or the development order shall expire, subject to reasonable extensions of time based on Criteria included in the regulations.

c. Review of changes in planned capacity of public facilities. The local government shall review each amendment to this Capital Improvement Element, in particular any changes in standards for levels of service and changes in the Schedule of Capital Improvements, in order to enforce the requirements of Policy 1.3.1.d.

d. Concurrency implementation strategies. The local government shall annually review the concurrency implementation strategies that are incorporated in this Capital Improvements Element:

(1) Standards for levels of service that are phased to reflect the local governments financial ability to increase public facility capacity, and resulting levels of service, from year to year. Standards for levels of service may be phased to specific fiscal years in order to provide clear, unambiguous standards for issuance of development order. (See Policy 1.1.3)

(2) Standards for levels of service that are applied within appropriate geographical areas of the local government. Standards for Countywide public facilities are applied to development orders based on levels of service throughout the County. Standards for public facilities that serve less than the

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entire County are applied to development orders on the basis of levels of service within assigned service areas. (See Policy 1.3.3.c)

(3) Standards for levels of service are applied according to the timing of the impacts of development on public facilities. Final development orders, which impact public facilities in a matter of months, are issued subject to the availability of water, sewer, and solid waste facilities prior to the issuance of the building permit, and other facilities (i.e., parks stormwater management and, mass transit) must be available within 12 months of the final development order. Preliminary development orders can be issued subject to public facility capacity, but the capacity determination expires in two years unless the applicant provides financial assurances to the local government. As an alternative, the determination of public facility capacity for preliminary development orders can be waived with in agreement that a capacity determination must be made prior to issuance of any final development order for the subject property. Such a waiver specifically precludes the acquisition of rights to a final development order as a result of the issuance of the preliminary development order. (See Policy 1.3.3.a and b)

(4) Levels of service are compared to adopted standards on an annual basis. Annual monitoring is used, rather than case-by-case monitoring, for the following reasons:

(a) annual monitoring corresponds to annual expenditures for capital improvements during the local governments' fiscal years;

(b) annual monitoring covers seasonal variations in levels of service; and

(c) case-by-case monitoring would require applicants for development orders or the local government to conduct costly, time-consuming research which would often be partially redundant of prior research, or involve disparate methodologies and produce inconsistent results. (See Concurrency Implementation and Monitoring System component A, above.)

(5) Public facility capital improvements are prioritized among competing applications for the same amount of facility capacity according to the criteria in Policy 1.1.5.b.4. If any applications have to be deferred to a future fiscal year because of insufficient capacity of public facilities during the current fiscal year, the applications to be deferred will be selected on the basis of rational criteria.

e. Capacity of Public Facilities for Development Orders Issued Prior to Adoption of the Plan. The City of Tallahassee and Leon County will "reserve" capacity of

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public facilities for development orders, in addition to approved Developments of Regional Impact, that were issued by the local government prior to the adoption of this Comprehensive Plan under the following circumstances:

- (1) A representative of the property which is the subject of the development order has requested and received a determination of vested rights, and
- (2) A representative of the property which is the subject of the development order has accepted in writing the applicable requirements of Policy 1.3.3.b, c of the Capital Improvements Element.

The local governments find that it is not necessary to automatically "reserve" capacity of public facilities for all development orders issued prior to the adoption of the plan because experience indicates that many such development orders are not used, or are not used to the maximum allowable uses, densities or intensities. The local governments find that the population forecasts that are the basis for this plan are a reasonable prediction of the absorption rate for development, and that the capital facilities which are planned to serve the forecast development are available for that absorption rate. Reserving public facility capacity for previously issued development orders would deny new applicants access to public facilities, and would arbitrarily enhance the value of dormant development orders.

The local governments intend to develop and pursue programs that will give persons with legitimate and substantial vested rights an opportunity to proceed with their plans without arbitrary interference by the new Comprehensive Plan. However, the local governments intend to require such persons to "continue in good faith" in order to "reserve" capacity of public facilities which are provided by the local government. The City of Tallahassee and Leon County will not "reserve" capacity of public facility for previously issued development orders that have not been vested under the local government's vesting ordinance and which have not continued development in good faith.

8. 5-Year Evaluation. The required 5-year evaluation and appraisal report shall address the implementation of the goals, objectives and policies of the Capital Improvements Element. The monitoring procedures necessary to enable the completion of the 5-year evaluation include:

- a. Review of Annual Reports of the Concurrency Implementation and Monitoring System.
- b. Review of Semiannual Reports to DCA concerning amendments to the Comprehensive Plan.
- c. Review of Annual Updates of this Capital Improvements Element, including updated supporting documents.

9. Contractor Performance System. The local government will develop a system of monitoring the actual performance of contractors who design and/or construct public facilities for the local government. The monitoring system shall track such items as actual vs. planned time schedule, and actual vs. bid cost. The performance of contractors shall be considered when the local government awards contracts for public facilities. 9J-5.016(3)(c)6 and (4)(b)